

BILL ANALYSIS

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Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Spitzer	AB 2928

SUBJECT

California Department Of Corrections To Contract With FTB For Collection Of Restitution Orders Owed By Prisoners

SUMMARY

This bill would authorize the California Department of Corrections and Rehabilitation (CDCR) to refer restitution orders owed by persons who are or have been under CDCR jurisdiction to the Franchise Tax Board (FTB) for collection and allow the person who is owed the restitution to decline the collection assistance.

PURPOSE OF BILL

According to the author's office, the purpose of this bill is to provide CDCR with the authority to continue collection of restitution orders through FTB against persons who are no longer under CDCR custody.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2009, and would be operative for restitution orders referred to FTB on or after that date.

ANALYSIS

STATE LAW

Under current state law, fees, penalties, forfeitures, restitution orders, fines, or certain amounts imposed by a superior or municipal court or governmental entity in California and delinquent for 90 days or more can be referred by the court or government entity to FTB for collection.

Restitution orders may be referred by a government entity under the following conditions:

- The government entity has the authority to collect on behalf of the state or victim.
- The government entity is responsible for the distribution of the amounts collected from the restitutions orders.
- The government entity ensures that in making the referral and distribution that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.
- The government entity ensures compliance with the laws relating to reimbursement of the State Restitution Fund.

After issuing a preliminary notice to the debtor, FTB is authorized to collect the referred restitution orders in the same manner as authorized for collection of a delinquent personal income tax liability. FTB's costs attributable to this collection program are reimbursed through the amount FTB collects for the program.

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The department has followed legislative intent language under the court-ordered debt (COD) collection program that limits FTB reimbursement to 15% of the amounts collected. In general, the county or state fund originally owed the debt receives the net collection proceeds after reduction by the amount of FTB's departmental collection costs.

Current state law authorizes FTB to use administrative collection tools to collect delinquent tax and non-tax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

CDCR has authority to refer restitution orders owed by parolees to FTB for collection because a parolee is still under the jurisdiction of CDCR. When a parolee is discharged from parole, CDCR no longer has authority to collect on behalf of the state or the victim, and FTB must return the uncollected portion of the account to CDCR.

THIS BILL

This bill would authorize CDCR to refer restitution orders owed by persons who are or have been under CDCR jurisdiction to FTB for collection. The person to whom restitution is ordered may decline CDCR's assistance to collect the amount. This bill would provide that in addition to existing amounts authorized to be added to amounts owed, a court, a county, or the state may include an administrative fee in the amounts referred to FTB for collection.

FTB would use existing court ordered debt authority to collect the restitution orders in the same manner and using the same tools as used in the collection of tax debts. FTB's costs for collection would be reimbursed from the amounts collected. The balance of the collected amounts would be remitted to CDCR for distribution to the person owed the restitution order.

LEGISLATIVE HISTORY

AB 2487 (Berg, 2007/2008) would authorize courts to refer civil judgments awarded to victims of domestic violence to Franchise Tax Board (FTB) for collection. This bill has been referred to the Senate Appropriations Committee.

AB 367 (de Leon, Stats. 2007, Ch. 132) established a task force to evaluate the imposition of criminal COD and distribution of revenue from the collection of those debts, and lowered the balance requirement for referral of COD for collection to the FTB.

SB 246 (Escutia, Stats. 2004, Ch. 380) extended indefinitely the provisions authorizing a county to refer delinquent debts to FTB for collection, thereby requiring FTB and the courts to expand the collection of court ordered debts to all 58 California Counties.

PROGRAM BACKGROUND

FTB currently collects restitution orders referred from courts of 43 counties and maintains an inventory of approximately 1.1 million cases. Non-tax debt collection is accomplished primarily through the use of wage garnishments and bank levies. In August 2004, legislation was enacted (SB 246, Stats. 2004, Ch. 380) making FTB's COD program permanent and requiring FTB to expand participation to all 58 counties and superior courts. To meet this requirement, FTB initiated the Court Ordered Debt Expansion (CODE) project to develop and implement a scalable collection and billing system. CODE is in development, and the department expects it to be functional by August, 2009. CODE is expected to administer an inventory of approximately 8 million cases from potentially 190 different courts.

FISCAL IMPACT

Implementing this bill would not impact department programs or operations because the cost to FTB to collect these restitution orders would be deducted from any amounts collected prior to being distributed.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

Appointments

None.

Support/Opposition

According to the Senate Revenue and Taxation Committee analysis of the bill as amended May 23, 2008, the following Support and Opposition are noted:

Support: California District Attorneys Association
Crime Victims United of California
Crime Victims Action Alliance
California Coalition Against Sexual Assault (CALCASA)

Opposition: Taxpayers for Improving Public Safety

VOTES

Assembly Floor – Ayes: 77, Noes: 0

Senate Floor – Ayes: 39, Noes: 0

Concurrence – Ayes: 77, Noes: 0

LEGISLATIVE STAFF CONTACT

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